

Box Seq / 0300



In Re Application of: EISENBACH-SCHWARTZ

Application No.: 09/765,301

Filed: January 22, 2001

For: THE USE OF COPOLYMER 1 AND RELATED PEPTIDES AND...

Confirmation No. 8567

Examiner:

Washington, D.C.

Atty.'s Docket: EISENBACH-SCHWARTZ=18

Date: September 6, 2001

THE COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Sir:

Transmitted herewith is a [] Amendment [XX] RESPONSE TO THE NOTICE TO COMPLY WITH SEQUENCE LISTING REQUIREMENTS
in the above-identified application.

- [] Small entity status of this application under 37 CFR 1.9 and 1.27 has been established by a verified statement previously submitted
- [] A verified statement to establish small entity status under 37 CFR 1.9 and 1.27 is enclosed.
- [] No additional fee is required.
- [] The fee has been calculated as shown below:

	(Col. 1)		(Col. 2)	(Col. 3)
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA EQUALS
TOTAL	*	MINUS	** 20	0
INDEP.	*	MINUS	*** 3	0
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM				

SMALL ENTITY	
RATE	ADDITIONAL FEE
x 9	\$
x 40	\$
+ 135	\$
ADDITIONAL FEE TOTAL	
	\$

OTHER THAN SMALL ENTITY	
RATE	ADDITIONAL FEE
x 18	\$
x 80	\$
+ 270	\$
TOTAL	
	\$

OR

OR

- * If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.
- ** If the "Highest Number Previously Paid for" IN THIS SPACE is less than 20, write "20" in this space.
- *** If the "Highest Number Previously Paid for" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment of the number of claims originally filed.

[XX] Conditional Petition for Extension of Time

If any extension of time for a response is required, applicant requests that this be considered a petition therefor.

[] It is hereby petitioned for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:

Small Entity
Response Filed Within
[] First - \$ 55.00
[] Second - \$ 195.00
[] Third - \$ 445.00
[] Fourth - \$ 695.00
Month After Time Period Set

Other Than Small Entity
Response Filed Within
[] First - \$ 110.00
[] Second - \$ 390.00
[] Third - \$ 890.00
[] Fourth - \$ 1390.00
Month After Time Period Set

[] Less fees (\$) already paid for month(s) extension of time on

[] Please charge my Deposit Account No. 02-4035 in the amount of \$

[] Credit Card Payment Form, PTO-2038, is attached, authorizing payment in the amount of \$

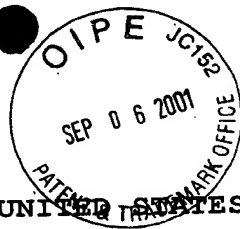
[] A check in the amount of \$ is attached (check no.).

[XX] The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of Time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR §1.16 and all patent processing fees under 37 CFR §1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue fees under 37 CFR §1.18.

BROWDY AND NEIMARK
Attorneys for Applicant(s)

By:
ALLEN C. YUN
Registration No. 37,971

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Telephone: (202) 628-5197



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	Box Sequence
EISENBACH-SCHWARTZ)	Confirmation NO.: 8567
Appln. No.: 09/765,301)	Washington, D.C.
Filed: January 22, 2001)	September 4, 2001
For: THE USE OF COPOLYMER 1 AND RELATED PEPTIDES AND...)	Atty.Docket: EISENBACH-SCHWARTZ=18

RESPONSE TO NOTICE TO COMPLY WITH
SEQUENCE LISTING REQUIREMENTS

Honorable Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Notice to Comply dated July 17, 2001, and prior to the examination of the above-described application, please amend the present application as follows:

IN THE SEQUENCE LISTING

Please substitute the attached Sequence Listing for that originally filed.

REMARKS

Applicants have added into the present specification a substitute paper copy Sequence Listing section according to 37 C.F.R. §1.821(c). Furthermore, attached hereto is a 3 1/2" disk containing the "Sequence Listing" in computer readable form in accordance with 37 C.F.R. §1.821(e).

The following statement is provided to meet the requirements of 37 C.F.R. §1.825(a) and 1.825(b).

I hereby state, in accordance with 37 C.F.R. §1.825(a), that the amendments included in the substitute sheets of the sequence listing are believed to be supported in the application as filed and that the substitute sheets of the sequence listing are not believed to include new matter.

I hereby further state, in accordance with 37 C.F.R. §1.825(b), that the attached copy of the computer readable form is the same as the attached substitute paper copy of the sequence listing.

Under U.S. rules, each sequence must be classified in <213> as an "Artificial Sequence", a sequence of "Unknown" origin, or a sequence originating in a particular organism, identified by its scientific name.

Neither the rules nor the MPEP clarify the nature of the relationship which must exist between a listed sequence and an organism for that organism to be identified as the origin of the sequence under <213>.

Hence, counsel may choose to identify a listed sequence as associated with a particular organism even though that sequence does not occur in nature by itself in that organism (it may be, e.g., an epitopic fragment of a naturally occurring protein, or a cDNA of a naturally occurring mRNA, or even a substitution mutant of a naturally occurring sequence). Hence, the identification of an organism in <213> should not be construed as an admission that the sequence *per se* occurs in nature in said organism.

Similarly, designation of a sequence as "artificial" should not be construed as a representation that the sequence has no association with any organism. For example, a primer or probe may be

designated as "artificial" even though it is necessarily complementary to some target sequence, which may occur in nature. Or an "artificial" sequence may be a substitution mutant of a natural sequence, or a chimera of two or more natural sequences, or a cDNA (i.e., intron-free sequence) corresponding to an intron-containing gene, or otherwise a fragment of a natural sequence.

The examiner should be able to judge the relationship of the enumerated sequences to natural sequences by giving full consideration to the specification, the art cited therein, any further art cited in an IDS, and the results of his or her sequence search against a database containing known natural sequences.

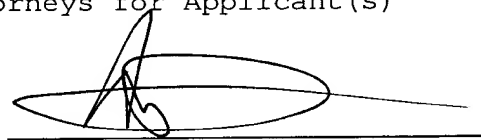
Applicants submit that the present application contains patentable subject matter and therefore urge the examiner to pass the case to issuance.

If the examiner has any questions or comments concerning the above described application, the examiner is urged to contact the undersigned at the phone number below.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

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